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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,282	03/25/2002	Frank Hofmann	1941	9040
7590	05/02/2006		EXAMINER	
Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743			WOZNIAK, JAMES S	
			ART UNIT	PAPER NUMBER
			2626	

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/030,282	HOFMANN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	James S. Wozniak	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 March 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 March 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    - Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

***Information Disclosure Statement***

1. The information disclosure statement filed 4/29/2002 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication (*Kuhl, H. et al*) or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the multiple receivers (4 and 7), demodulators (5 and 8), and decoders (6 and 9) in a single receiving system as recited in claims 2 and 8 and disclosed on page 5 of the specification must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure

must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

### *Claim Objections*

3. **Claims 1-6 and 8** are objected to because of the following informalities:

With respect to Claims 1 and 2, the examiner notes that the claims as recited are directed to a method, but seem to be actually directed to raster and receiving *devices*, respectively. Appropriate correction is required. In the interest of further advancing prosecution, the examiner has assumed that claims 1 and 2 are directed to an apparatus, for the application of the prior art of record.

With respect to Claim 8, the examiner notes that the claimed system refers to elements that are contained in separate drawings and that are not shown to exist in the same receiver system (*Figs. 1 and 3*) (*see drawing objection*). Appropriate correction is required. For the application of the prior art of record, the examiner has assumed that all of the claimed elements are contained within the same receiver system, as is noted on page 5 of the specification.

Dependent claims 2-6 do not remedy the informalities noted above with respect to claim 1, and thus, are also rejected due to such informalities.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1, 2, 5, and 7** are rejected under 35 U.S.C. 102(e) as being anticipated by Mansour et al (*U.S. Patent: 6,353,637*).

With respect to **Claims 1 and 7**, Mansour discloses:

A method for transmission-end preparation of source-coded audio data of at least one useful signal source, in particular for transmission via AM channels (*IBOC-AM system, Col. 4, Lines 5-53*) of a predetermined channel raster with the following features:

The source coded audio data of at least one useful signal source are separated into a main data stream and at least one auxiliary data stream (*dividing coded audio into a core audio stream (C-stream) and enhancement streams (E<sub>1</sub> and E<sub>2</sub> streams)*, *Col. 4, Lines 37-53 and Col. 5, Lines 4-27*);

Wherein the main data stream contains at least the amount of information that is required for a comprehensible reproduction of at least one useful signal source (*C-stream that provides*

*minimum acceptable audio quality upon recovery at a receiver, Col. 4, Lines 37-53) and the auxiliary data stream contains information for quality improvement (enhancement streams that allow for higher audio quality when combined with a recovered C-stream, Col. 4, Lines 37-53);*

The main and auxiliary data streams are modulated and accommodated in respective different channels of the predetermined channel raster (*modulation of core and enhancement audio streams at a modem and transmission of the steams using different communication channels, Col. 5, Line 52- Col. 6, Line 45; Fig. 2; and Col. 8, Lines 61-65*).

With respect to **Claim 2**, Mansour discloses the transmission-end preparation method and system, as applied to Claims 1 and 7, and additionally recites:

A receiver with low reproduction quality is used to demodulate and decode only the main data stream (*core audio stream processing at a receiver, Col. 6, Line 46- Col. 7, Line 12*);

A receiver with higher reproduction quality is intentionally used to demodulate and decode only the main data stream or the main data stream and at least one associated auxiliary data stream are demodulated and decoded, where mutually associated demodulated and decoded data streams are linked to one another in such a way that an increase is achieved in the reproduction quality for the at least one useful data source (*demodulating and decoding core and enhancement audio streams and blending the streams together to generate higher quality recovered audio, Col. 6, Line 46- Col. 8, Line 34 and Col. 4, Lines 37-53*).

With respect to **Claim 5**, Mansour discloses the means for blending core and enhancement audio streams, as applied to claim 2, and further notes the use of enhancement streams for adding stereo components (*Col. 9, Lines 9-11*).

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 3-4 and 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mansour et al in view of Campanella et al (*U.S. Patent: 6,201,798*).

With respect to **Claim 3**, Mansour discloses the method and system for dividing coded audio into core and enhancement audio streams for transmission-end processing, as applied to Claim 1. Mansour does not specifically suggest that a core audio stream includes signaling relating to whether an auxiliary stream is provided and the channel where such a stream is located. Campanella, however, recites a service control header that is inserted in each audio bit stream frame that includes an auxiliary content indicator and data for referencing an auxiliary data channel (*Col. 1, Line 63- Col. 2, Line 4; Col. 2, Lines 46-55; and Col. 23, Line 64- Col. 24, Line 62*).

Mansour and Campanella are analogous art because they are from a similar field of endeavor in coded audio transmission systems utilizing core and enhancement data. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, modify the teachings of Mansour with the service control header taught by Campanella in order to implement a means for dynamically controlling the reception of an audio broadcast at a remote receiver (*Campanella, Col. 2, Lines 3-4*).

With respect to **Claim 4**, Campanella further discloses an auxiliary data content indicator (*Col. 2, Lines 46-55*) and a service component control field that indicates how main and auxiliary data is decoded (*Col. 3, Lines 25-36*).

**Claim 8** contains subject matter similar to Claims 2-4, and thus, is rejected for the same reasons.

8. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Mansour et al in view of Lou et al (*U.S. Patent: 6,370,666*).

With respect to **Claim 6**, Mansour discloses the method and system for dividing coded audio into core and enhancement audio streams for transmission-end processing, as applied to Claim 1. Mansour does not specifically suggest that the scalability of MPEG 4 data streams is used to separate the source-coded audio data into main and auxiliary data streams, however Lou discloses the use of MPEG 4 for dividing coded audio into main and auxiliary data (*Col. 6, Lines 17-33*).

Mansour and Lou are analogous art because they are from a similar field of endeavor in coded audio transmission systems utilizing core and enhancement data. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, modify the teachings of Mansour with the use of MPEG 4 for dividing coded audio into main and auxiliary data as taught by Lou in order to enable the creation of enhancement layers that provide for higher quality audio reproduction (*Lou, Col 6, Lines 17-33*) using a well-known coding standard that can be implemented using readily available audio coders.

*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Kumar (*U.S. Patent: 6,005,894*)- teaches a digital audio broadcasting system having an adjacent channel for supplemental data.

Anderson et al (*U.S. Patent: 6,311,161*)- teaches a method for merging primary and second audio channels in a streaming audio application.

Park et al (*U.S. Patent: 6,529,604*)- teaches an audio coding method utilizing base and enhancement layers.

Lou et al (*U.S. Patent: 6,876,623*)- discloses an audio transmission system containing core and enhancement streams that are transmitted over different channels.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Wozniak whose telephone number is (571) 272-7632. The examiner can normally be reached on M-Th, 7:30-5:00, F, 7:30-4, Off Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached at (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James S. Wozniak  
4/13/2006



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